

**IN THE DISTRICT COURT OF THE UNITED STATES FOR  
THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

JOYCE MARIE POWE, A.S.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.: <b>03: 05-cv-1140-WKW</b>
	)	
UNITED STATES DEPARTMENT	)	
OF DEFENSE,	)	
	)	
Defendant.	)	

**MOTION TO DISMISS**

Comes now the defendant, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and requests this matter be dismissed pursuant to Rule 12(b)(1), Federal Rules of Civil Procedure, and as grounds states as follows:

1. On two prior occasions the plaintiff has brought actions against 2 separate federal agencies/defendants seeking compensation and/or the alternative relief of enlistment in the military, because she believes the United States Coast Guard is not a proper agency of the Department of Transportation.<sup>1</sup>

Both cases were dismissed due to this Court's lack of subject matter jurisdiction.<sup>2</sup>

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<sup>1</sup> See, Joyce Marie Powe v. United States Department of Transportation, USDC # 01-D-566-N (Doc. 1), a copy of which is attached hereto as Defendant's Exhibit 1 and Joyce Marie Powe, A.S. v. United States Department of the Navy, USDC # 03-F-796-N (Doc. 1), a copy of which is attached hereto as Defendant's Exhibit 2.

<sup>2</sup> See, USDC # 01-D-566-N (Doc.19), a copy of which is attached hereto as Defendant's Exhibit 3; and USDC # 03-F-796-N (Doc. 10), a copy of which is attached hereto as Defendant's Exhibit 4.

2. Herein the plaintiff again alleges she is entitled to be compensated “[b]ecause the U.S. Coast Guard, . . . , is not an [sic] U.S. Department of Defense Division, Department, etc.”<sup>3</sup> In fact, she is specifically requesting “payment not exceeding \$10,000.00, . . . , paid to each U.S. Adult Citizen aged 19 years or above.”<sup>4</sup>

3. In the interest of judicial economy, the defendant adopts and incorporates by reference, as if fully set forth herein, the Reports and Recommendation issued by the Honorable United States Magistrate Judge Charles S. Coody in USDC # 01-D-566<sup>5</sup>, and the same entered by the Honorable United States Magistrate Judge Delores R. Boyd in USDC # 03-F-796-N<sup>6</sup> as its arguments in support of this Motion to Dismiss.

WHEREFORE, premises considered, the complaint is due to be and should be dismissed.

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<sup>3</sup> Complaint, USDC # 2:05-cv-1140-WKW (Doc. 1, ¶ 10).

<sup>4</sup> Id.

<sup>5</sup> USDC # 01-D-566-N (Doc.17), a copy of which is attached hereto as Defendant’s Exhibit 5.

<sup>6</sup> USDC # 03-F-796-N (Doc. 7), a copy of which is attached hereto as Defendant’s Exhibit 6.

Respectfully submitted this 1<sup>st</sup> day of February, 2006.

LEURA G. CANARY  
United States Attorney

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**CERTIFICATE OF SERVICE**

I, the undersigned Assistant United States Attorney, do hereby certify that I have served a copy of the foregoing upon Joyce Marie Powe, A.S., *pro se*, by mailing same, properly addressed to P.O. Box 2443, Mobile, AL 36652-2443.

Done this 1<sup>st</sup> day of February, 2006.

/s/R. Randolph Neeley  
Assistant United States Attorney